

Central Intelligence Agency



Washington, D.C. 20505

OCA FILE

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OCA 3954-88

Mr. James C. Murr
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

This letter responds to your request for the views of the Central Intelligence Agency (CIA) on a Department of Defense (DoD) report and legislative proposal to amend the provisions of 5 U.S.C. §9101.

Currently, these provisions require state and local criminal justice agencies to provide upon request to DoD, the Office of Personnel Management (OPM), the CIA and the Federal Bureau of Investigation (FBI), criminal history record information (CHRI) on individuals under investigation by those agencies for a security clearance or for employment. 5 U.S.C. §9101(b)(1). The federal agencies may be made to pay "reasonable" fees and any request is to be accompanied by a copy of the individual's fingerprints if required by State law as part of an automated fingerprint identification system. 5 U.S.C. §9101(b)(1). In addition, "detention" records are not included in the body of CHRI information subject to such requests. 5 U.S.C. §9101(a)(2).

The DoD proposal deletes the fee and fingerprint requirements and substitutes therefor a provision permitting the federal requesters to obtain CHRI directly from the state or local agency's computer system at a reasonable cost. It also includes "detention" records in the body of CHRI information subject to such requests.

We support DoD's goals of eliminating unnecessary fingerprint requirements, reducing the cost of obtaining CHRI, and allowing federal agencies to share in the costs savings to be gained through computerization of the process. We, thus, support the DoD proposal.

We suggest careful consideration be given to the legislative vehicle chosen to carry this proposal. We note that the provisions of 5 U.S.C. §9101 were originally enacted into law as Section 801 of the Fiscal Year 1986 Intelligence Authorization Act (Public Law 99-169) and that the FBI was added to the group of federal agencies authorized to make CHRI requests by Section 402 of the Fiscal Year 1987 Intelligence Authorization Act (Public Law 99-569). As such, DoD may consider including the item in the Administration's proposed Fiscal Year 1990 Intelligence Authorization Bill which is currently being drafted by this office. Such a proposal would have to be submitted to this office promptly and we would need a clear indication of support for it from DoD. Alternatively, the item could be included in the Fiscal Year 1990 Department of Defense Authorization Bill or submitted as freestanding legislation.

We would be pleased to work with all concerned on this question and, regardless of the vehicle chosen, would monitor the proposal as it moves through the legislative process to ensure it is not adversely modified.

Thank you for the opportunity to comment on this important item of legislation.

Sincerely,

John L. Helgersen

Director of Congressional Affairs

cc: Opal Andrews, Department of Defense
William R. Fedor, Office of the Secretary of Defense
Steve Hooks, Federal Bureau of Investigation

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